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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,010	02/16/2001	James McCoy	A0647-991100	4071
26379 7590 08/11/2009 DLA PIPER LLP (US ) 2000 UNIVERSITY AVENUE EAST PALO ALTO, CA 94303-2248				
EXAMINER				
ELISCA, PIERRE E				
ART UNIT		PAPER NUMBER		
3621				
NOTIFICATION DATE		DELIVERY MODE		
08/11/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: JAMES MCCOY and DOUGLAS BARNES

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Application No. 09/785,010  
Technology Center 3600

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Mailed: August 10, 2009

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Before MARIA VIGNONE, *Supervisory Trial Clerk*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 27, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

### EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file indicates that the Examiner's Answer filed July 6, 2007 does not comply with the guidelines provided in MPEP § 1207.02 because it refers, directly to a prior Office action without fully restating the point relied upon in the Answer. If there is a complete and thorough development of the issues in a prior action, the examiner may copy any referenced prior rejection(s) from the prior Office action into the Examiner's Answer. The Examiner is reminded to reevaluate his or her prior position in light of the arguments presented in the Brief, and should expressly withdraw any rejections not adhered to in the "Grounds of Rejection Withdrawn" section of the Examiner's Answer.

Therefore, a substitute Examiner's Answer which fully restates any prior points relied upon in the answer, is required. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

### CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed July 6, 2007;
- 2) to generate a new Examiner's Answer which does not refer directly or indirectly to a prior Office action without fully restating the point relied on in the answer; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application No. 09/785,010

MV/nhl

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